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09/942,516	08/30/2001	John E. Auer	2000P09059US01	8141
43713 7590 03/30/2009 JACK SCHWARTZ & ASSOCIATES 1350 BROADWAY, SUITE 1510 NEW YORK, NY 10018				
EXAMINER COBANOGU, DILEK B				
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN R. AUER

Appeal 2009-0521
Application 09/942,516
Technology Center 3600

Decided: ¹ March 30, 2009

Before HUBERT C. LORIN, JOSEPH A. FISCHETTI, and BIBHU R.
MOHANTY, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Date (electronic delivery).

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. §§ 6(b) and 134(a) from the final rejection of claims 1-6, 8-16, 18-23. We have jurisdiction under 35 U.S.C. § 6(b). (2002).

Representative claim 1 reads as follows:

1. In an internet compatible system for displaying medical information derived from a plurality of sources, apparatus comprising:

an acquisition processor for acquiring data associated with a patient from at least one of the plurality of sources, the processor prioritizing the acquired data for display in a desired order;

a display; and

a menu generating processor for generating a composite window including a first panel for displaying on said display user specified parameters of said ordered acquired data in a graphical format, a second panel for displaying user specified parameters of said ordered acquired data in tabular format, and a third panel for displaying a user selected one of user-entered medical notes, medical laboratory results, and ventilator data;

wherein said second panel includes a slider bar for navigating through the user specified parameters in tabular format; and

said first panel includes a cursor, said cursor being controlled by said slider bar, said slider bar controlling said cursor and enabling concurrent user navigation in both said first and second panels through said user specified parameters in both graphical format and tabular format.

The references set forth below are relied upon as evidence of anticipation:

Wallace
Schoenberg

US 6,305,373 B1
US 2005/0125256 A1

Oct. 23, 2001
Jun. 9, 2005

The Examiner rejected claims 1-6, 8-16 and 18-23 under 35 U.S.C. § 103(a) as being unpatentable over Schoenberg in view of Wallace.

Claims 1, 11, and 18, are the sole independent claims from which all dependent appealed claims depend.

Claims 1, 11, and 18 require:

said first panel includes a cursor, said cursor being controlled by said slider bar, said slider bar controlling said cursor and enabling concurrent user navigation in both said first and second panels through said user specified parameters in both graphical format and tabular format.

With respect to the above limitation, the Examiner maintains that Schoenberg discloses this feature:

Examiner respectfully submits that paragraph 0031 of the specification of this application recite a time slider bar, so that (0031)"...The user may then use time slider bar 352 to focus on the specific time period within the days specified in the date navigator 330, so that the particular time period of interest may be displayed on the screen." In paragraph 0054 Schoenberg teaches multiple graphical displays of patient information, which can be viewed simultaneously (paragraphs 0015 and 0054) and a time scale as a slider bar, the table below the graph includes numerical data in one minute intervals of time and time scale can be changed for any of (*sic*, or) all the images, a cursor in paragraph 0037 and in paragraph 0052 mutiple (*sic*) simultaneous displays, and tabular, graphical or graphical/tabular display. (Answer, 10).

Initially, we agree with the Examiner that the multiple graphical displays to which the Examiner refers are presented simultaneously on one screen (Schoenberg, ¶ [0054]). However, Schoenberg discloses that *each*

display has “appropriate icons at the right side and bottom of each display” (Schoenberg, ¶[0055]) which independently control functions, such as, scrolling or maximizing. Schoenberg, in Figure 2B, so illustrates a screen with four displays, with each of the four displays shown having a separate time scale at the bottom thereof. As the Examiner points out, Schoenberg discloses that the time scale “for any or all of the images” can be selectively changed by a user. (Schoenberg, ¶[0054]) But, since each display panel is illustrated with its own time scale, and Schoenberg specifically discloses that “[e]ach display can be scrolled through *independently* to review all the information contained therein” (Schoenberg, ¶[0054]), we read Schoenberg as disclosing that each time scale is likewise independently controlled relative the other time scales which may be shown simultaneously together on the screen. Thus, while any or all simultaneously displayed panel time scales may be independently changed, we do not find that Schoenberg discloses or makes inherent one slider controlling a cursor which *enables concurrent user navigation in both said first and second panels*. As such, we conclude that Schoenberg fails to disclose *said first panel includes a cursor, said cursor being controlled by said slider bar, said slider bar controlling said cursor and enabling concurrent user navigation in both said first and second panels through said user specified parameters in both graphical format and tabular format*.

The Examiner relies on Wallace only to teach ventilator data comprising ventilator parameters (Answer 5). Since Schoenberg does not

disclose the limitation of said slider bar controlling said cursor and enabling concurrent user navigation in both said first and second panels through said user specified parameters in both graphical format and tabular format, but in fact teaches away from this limitation as discussed above, and Wallace is silent on such a feature, we cannot sustain the rejection of independent claims 1, 11, and 18. *See United States v. Adams*, 86 S.Ct. 708 (1966) (“...when the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be unobvious”).

Since claims 2-3, 6, 8-10, 21 and 23 depend from claims 1, 11, and 18, and since we cannot sustain the rejection of the independent claims, the rejection of these claims likewise cannot be sustained.

The decision of the Examiner to reject claims 1-6, 8-16 and 18-23 under 35 U.S.C. § 103(a) as being unpatentable over Schoenberg in view of Wallace is reversed.

REVERSED

JRG

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